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John Del Vecchio

Name

John Del Vecchio

Signature

November 20, 2003

Date of Signature

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Fenwick et al.

Serial No.: 10/038,559

Filed: January 4, 2002

For: Large Offset Lattice Fence

Examiner: Ryan M. Flandro

Group Art Unit: 3679

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**GROUP 3600**

### DECLARATION OF PRIOR INVENTION IN A NAFTA MEMBER COUNTRY (CANADA) TO OVERCOME CITED PATENT UNDER 37 C.F.R. §1.131

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

1. The purpose of this Declaration is to establish conception of the invention for the Large Offset Lattice Fence invention in the NAFTA country of Canada at a date prior to June 18, 2001, coupled with due diligence from said date to subsequent reduction to practice of the Large Offset Lattice Fence. The reduction to practice which was the first molding of the large offset lattice fence occurred on or about January 29, 2001.

2. The Examiner has rejected claims 1-16 of my application for a large offset lattice fence under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,470,643 to Cantley for a Plastic Lattice. The Cantley patent was filed June 18, 2001.

3. The person making this Declaration is an inventor of the above referenced Large Offset Lattice Fence.

4. I worked diligently in reducing my Large Offset Lattice Fence invention to practice from a time prior to June 18, 2001 until filing an application for the invention on January 4, 2002. In particular my diligence comprised the following acts:

- a) conceiving the large offset lattice fence invention prior to June 18, 2001,
- b) making arrangements with Top Grade Molds located at 919 Pantera Drive, Mississauga Ontario L4W 2R9 to have a mold prepared so that the large offset lattice fence could be made, and
- c) having blueprints for the large offset lattice fence prepared so that the mold could be made to specification (this occurred on or about June 2000).

And my diligence is shown by the following documents:

a) A blueprint sheet for the large offset lattice fence dated June 2000 (attached as exhibit A). The blueprint sheet (about three feet by five feet in dimension) shows figures of the large offset lattice fence including: a perspective view, a plan view, a sectional view and an enlarged detail view the lattices. In particular, the perspective view of the large offset lattice fence clearly shows the large offset between the fence lattices. The plan view shows the network of lattices. The sectional view taken along outline A-A of the plan view clearly shows a large offset of greater than fifty percent (50%). The detail view of the sectional view again shows the large offset of the lattices and shows the offset to be well over fifty percent (50%). In particular, the detail view shows that the lattices each have a thickness of 0.18, and the overlap (or thickness of the merged area) between the lattices to be 0.015. Thus, to determine the offset 0.015 is divided by 0.18 and the result is the percent overlap of the lattices which is about eight percent (8%). The lattices are offset thus offset from one another by about ninety two percent (92%). Thus, the blueprint figures show the large offset lattice fence.


b) A purchase order made between Brite Millwork Inc. and Top Grade Molds (attached as Exhibit B). As shown, the purchase order is for a "lattice stack mold". The price quote for

said mold was \$400,000.00. The purchase order also shows the delivery date of the mold to be December 2000.

5. This declaration is being submitted prior to final rejection of the claims of this application.

6. As the person signing below I hereby declare that all statements made herein of my own knowledge are true and that all statement made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the U.S. Code, and that willful false statements may jeopardize the validity of the application and any patent issued thereon.

Dated: Nov 20, 2003

  
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